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09/773,352	01/31/2001	Kenneth Carroll	CRL/002	4024

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EXAMINER

TRAN A, PHI DIEU N

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 06/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/773,352

Applicant(s)

CARROLL, KENNETH

Examiner

Phi D A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17,20 and 23-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17,20 and 23-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Line 3 "shaft a tensile" is indefinite. Should it be "shaft having a tensile"?

Line 6 "disposed on the first end" is indefinite. Should it be "disposed on the second end"?

3. The indicated allowability of claims 17, 20, 23-29 is withdrawn in view of the newly discovered reference(s) to Longley et al, Tomkinson, Belser, Grimes, and Giannuzzi. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 17, 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Longley et al (2911859) in view of Tomkinson (1598407).

Longley et al (figure 5) shows an anchor comprising a center shaft having a tensile strength, the shaft having an attachment end (86, inherently capable of being adapted to couple to

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a fall restraint), a piercing end (94) terminating in a point, a first member (92) pivotally coupled to the center shaft, a second member (91) pivotally coupled to the center shaft, a collar (95) slidably disposed on the center shaft, a spring (93) biases at least one of the pivotal members away from the shaft, the piercing end terminating in a point or knife edge, the first member and second member each including an end that meet to form a point that extends beyond the piercing end of the shaft when the first member and the second member are in the first position.

Longley et al does not show the shaft having a tensile strength of at least 5000 pounds, a locking mechanism coupled to the collar and having a first end movable relative to the collar and bias able against the shaft to fix the position of the collar relative to the shaft.

Tomkinson shows a locking mechanism (68, 67) coupled to a collar and having a first end movable relative to the collar and bias able against the shaft to fix the position of the collar relative to the shaft to secure the collar to the shaft (col 3 lines 104-105).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Longley et al to show the shaft having a tensile strength of at least 5000 pounds, a locking mechanism coupled to the collar and having a first end movable relative to the collar and bias able against the shaft to fix the position of the collar relative to the shaft because having a shaft with at least 5000 pounds tensile strength would ensure the shaft having sufficient strength to withstand against the turning torque, and the locking mechanism would secure the collar to the shaft as taught by Tomkinson.

Longley et al as modified shows the collar having a hole formed therethrough and having a locking mechanism disposed therein, the mechanism being a threaded member.

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6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Longley et al in view of Tomkinson and Grimes (1169635)

Longley et al shows an anchor comprising a center shaft having a tensile strength, the shaft having a first end (94) for piercing through the building structure and a second end, a first member (91) pivotally coupled to the center shaft, a second member pivotally coupled to the center shaft, the first member and the second member being rotatable between a first position proximate the shaft and a second position away from the shaft, the first member and the second member each including an end that meet to form a point that extends beyond the first end of the shaft when the first and second members are in the first position, a collar (95) slidably disposed on the center shaft, the collar and the first and second members sandwiching the building therebetween when the first and second members being in the second position and the collar is slid away from the second end.

Longley et al does not show the shaft having a tensile strength of at least 5000 pounds, a locking mechanism coupled to the collar and having a first end movable relative to the collar and bias able against the shaft to fix the position of the collar relative to the shaft, a ring disposed on the second end and defining a hole spaced from the shaft.

Tomkinson shows a locking mechanism (68, 67) coupled to a collar and having a first end movable relative to the collar and bias able against the shaft to fix the position of the collar relative to the shaft to secure the collar to the shaft (col 3 lines 104-105).

Grimes shows a ring disposed on the second end and defining a hole spaced from the shaft for attachments thereof.

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It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Longley et al to show the shaft having a tensile strength of at least 5000 pounds, a locking mechanism coupled to the collar and having a first end movable relative to the collar and bias able against the shaft to fix the position of the collar relative to the shaft, a ring disposed on the second end and defining a hole spaced from the shaft because having a shaft with at least 5000 pounds tensile strength would ensure the shaft having sufficient strength to withstand against the turning torque, and the locking mechanism would secure the collar to the shaft as taught by Tomkinson, and having a ring disposed on the second end would enable attachments of other structures to the anchor as taught by Grimes.

7. Claims 23, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Longley et al in view of Tomkinson as applied to claim 17 above, and further in view of Grimes.

Longley et al as modified shows all the claimed limitations except for the attachment end being coupled to a fall restraint.

Grimes shows an attachment end being coupled to a fall restraint (the ring).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Longley et al's modified structure to show the attachment end being coupled to a fall restraint because it would allow the attachment end to hang other structures to the anchor as taught by Grimes.

Per claim 29, Longley et al as modified shows the attachment end comprising a ring defining a hole spaced from the shaft for coupling the fall restraint.

8. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Longley et al in view of Tomkinson and Grimes (1169635)

Longley et al shows an anchor comprising a center shaft having a tensile strength, the shaft having a first end (94) having a point edge, a second end, a first member (91) pivotally coupled to the center shaft, a second member (92) nesting with the first member and coupled to the center shaft at a common axis of rotation with the first member, the first member and the second member being rotatable between a first position proximate the shaft and a second position away from the shaft, a pivot member (90) disposed through the shaft and coupling the first and second members, a collar (95) slidably repositionable along the center shaft, the collar having a body and a flange extending radially outward from an end of the body facing the first end of the shaft.

Longley et al does not show the shaft having a tensile strength of at least 5000 pounds, a locking mechanism coupled to the collar and having a first end movable relative to the collar and bias able against the shaft to fix the position of the collar relative to the shaft, a ring disposed on the second end and defining a hole spaced from the shaft.

Tomkinson shows a locking mechanism (68, 67) coupled to a collar and having a first end movable relative to the collar and bias able against the shaft to fix the position of the collar relative to the shaft to secure the collar to the shaft (col 3 lines 104-105).

Grimes shows a ring disposed on the second end and defining a hole spaced from the shaft for attachments thereof.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Longley et al to show the shaft having a tensile strength of at least 5000 pounds, a locking mechanism coupled to the collar and having a first end movable relative to the collar and bias able against the shaft to fix the position of the collar relative to the shaft, a ring

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disposed on the second end and defining a hole spaced from the shaft because having a shaft with at least 5000 pounds tensile strength would ensure the shaft having sufficient strength to withstand against the turning torque, and the locking mechanism would secure the collar to the shaft as taught by Tomkinson, and having a ring disposed on the second end would enable attachments of other structures to the anchor as taught by Grimes.

9. Claim 17, 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belser (Re35358) in view of Tomkinson (1598407).

Belser (figure 1) shows an anchor comprising a center shaft having a tensile strength, the shaft having an attachment end (16a, inherently capable of being adapted to couple to a fall restraint), a piercing end (16) terminating in a point, a first member (26 right) pivotally coupled to the center shaft, a second member (26 left) pivotally coupled to the center shaft, a collar (23) slidably disposed on the center shaft, a spring (27) biases at least one of the pivotal members away from the shaft, the piercing end terminating in a point or knife edge, the first member and second member each including an end that meet to form a point that extends beyond the piercing end of the shaft when the first member and the second member are in the first position.

Belser does not show the shaft having a tensile strength of at least 5000 pounds, a locking mechanism coupled to the collar and having a first end movable relative to the collar and biasable against the shaft to fix the position of the collar relative to the shaft.

Tomkinson shows a locking mechanism (68, 67) coupled to a collar and having a first end movable relative to the collar and biasable against the shaft to fix the position of the collar relative to the shaft to secure the collar to the shaft (col 3 lines 104-105).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Belser to show the shaft having a tensile strength of at least 5000 pounds, a locking mechanism coupled to the collar and having a first end movable relative to the collar and bias able against the shaft to fix the position of the collar relative to the shaft because having a shaft with at least 5000 pounds tensile strength would ensure the shaft having sufficient strength to withstand against the turning torque, and the locking mechanism would secure the collar to the shaft as taught by Tomkinson.

Belser as modified shows the collar having a hole formed therethrough and having a locking mechanism disposed therein, the mechanism being a threaded member.

10. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belser in view of Tomkinson and Giannuzzi (4668144)

Belser shows an anchor comprising a center shaft having a tensile strength, the shaft having a first end (16a) for piercing through the building structure and a second end, a first member (26 left) pivotally coupled to the center shaft, a second member (26 right) pivotally coupled to the center shaft, the first member and the second member being rotatable between a first position proximate the shaft and a second position away from the shaft, the first member and the second member each including an end that meet to form a point that extends beyond the first end of the shaft when the first and second members are in the first position, a collar (23) slidably disposed on the center shaft, the collar and the first and second members sandwiching the building therebetween when the first and second members being in the second position and the collar is slid away from the second end.

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Belser does not show the shaft having a tensile strength of at least 5000 pounds, a locking mechanism coupled to the collar and having a first end movable relative to the collar and bias able against the shaft to fix the position of the collar relative to the shaft, a ring disposed on the second end and defining a hole spaced from the shaft.

Tomkinson shows a locking mechanism (68, 67) coupled to a collar and having a first end movable relative to the collar and bias able against the shaft to fix the position of the collar relative to the shaft to secure the collar to the shaft (col 3 lines 104-105).

Giannuzzi shows an attachment member (28) attached to the attachment end to enable carrying other object (col 4 lines 65-69).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Belser to show the shaft having a tensile strength of at least 5000 pounds, a locking mechanism coupled to the collar and having a first end movable relative to the collar and bias able against the shaft to fix the position of the collar relative to the shaft, a ring disposed on the second end and defining a hole spaced from the shaft because having a shaft with at least 5000 pounds tensile strength would ensure the shaft having sufficient strength to withstand against the turning torque, and the locking mechanism would secure the collar to the shaft as taught by Tomkinson, and having a ring disposed on the second end would enable attachments of other structures to the anchor as taught by Giannuzzi.

11. Claims 23, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belser in view of Tomkinson as applied to claim 17 above, and further in view of Giannuzzi.

Belser as modified shows all the claimed limitations except for the attachment end being coupled to a fall restraint.

Giannuzzi shows an attachment end being coupled to a fall restraint .

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Belser's modified structure to show the attachment end being coupled to a fall restraint because it would allow the attachment end to hang other structures to the anchor as taught by Giannuzzi.

Per claim 29, Belser as modified shows the attachment end comprising a ring defining a hole spaced from the shaft for coupling the fall restraint.

12. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belser in view of Tomkinson and Giannuzzi.

Belser shows an anchor comprising a center shaft having a tensile strength, the shaft having a first end (16a) having a point edge, a second end, a first member (26 left) pivotally coupled to the center shaft, a second member (26 right) nesting with the first member and coupled to the center shaft at a common axis of rotation with the first member, the first member and the second member being rotatable between a first position proximate the shaft and a second position away from the shaft, a pivot member (24) disposed through the shaft and coupling the first and second members, a collar (23) slidably repositionable along the center shaft, the collar having a body and a flange extending radially outward from an end of the body facing the first end of the shaft.

Belser does not show the shaft having a tensile strength of at least 5000 pounds, a locking mechanism coupled to the collar and having a first end movable relative to the collar and biasable against the shaft to fix the position of the collar relative to the shaft, a ring disposed on the second end and defining a hole spaced from the shaft.

Tomkinson shows a locking mechanism (68, 67) coupled to a collar and having a first end movable relative to the collar and bias able against the shaft to fix the position of the collar relative to the shaft to secure the collar to the shaft (col 3 lines 104-105).

Giannuzzi shows an attachment member (28) attached to the attachment end to enable carrying other object (col 4 lines 65-69).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Belser to show the shaft having a tensile strength of at least 5000 pounds, a locking mechanism coupled to the collar and having a first end movable relative to the collar and bias able against the shaft to fix the position of the collar relative to the shaft, a ring disposed on the second end and defining a hole spaced from the shaft because having a shaft with at least 5000 pounds tensile strength would ensure the shaft having sufficient strength to withstand against the turning torque, and the locking mechanism would secure the collar to the shaft as taught by Tomkinson, and having a ring disposed on the second end would enable attachments of other structures to the anchor as taught by Giannuzzi.

Response to Arguments

13. Applicant's arguments with respect to claims 17, 20, 23-29 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

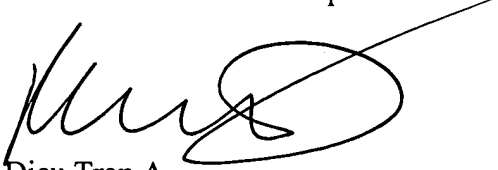
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different anchoring elements.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Phi Dieu Tran A
June 1, 2003